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Fifty-fifth session
Item 116 (b) of the provisional agenda*
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Protection of migrants

Report of the Secretary-General**

1. At its fifty-fourth session the General Assembly strongly condemned all forms of racial discrimination and xenophobia with regard to access to employment, vocational training, housing, schooling, health services, social services, and other services intended for use by the public, and welcomed the active role played by governmental and non-governmental organizations in combating racism and assisting individual victims of racist acts, including acts against migrants.

2. The General Assembly welcomed the decision of the Commission on Human Rights to appoint a special rapporteur on the human rights of migrants. The Assembly requested all Governments to cooperate fully with the Special Rapporteur in the performance of the mandated tasks and duties and to furnish all information requested.

3. The Secretary-General was requested to submit a report to the General Assembly at its fifty-fifth session on the implementation of resolution 54/166 under the sub-item "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms".

4. Pursuant to that resolution, the Office of the High Commissioner for Human Rights transmitted, on 29 May 2000, a note verbale to Governments on behalf of the Secretary-General, drawing their attention, in particular, to paragraphs 1, 3, 4, 6 and 7 of resolution 54/166.

* A/55/150.

** In accordance with General Assembly resolution 54/248, sect. C, para.1, this report is being submitted on 31 July 2000 so as to include as much updated information as possible.

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5. The Secretary-General requested Governments to provide him with any information they wished to submit pertaining to the implementation of the resolution. By the time the present report was finalized only four replies had been received by the Office of the High Commissioner.

6. On 20 June 2000 the Government of Cuba transmitted a reply to the United Nations Secretariat, expressing concern on issues such as the trafficking of migrant workers and the irregular exodus of Cuban citizens to the United States of America.

7. On 3 July 2000 the Government of Kuwait provided a reply concerning the protection of migrants. It has been transmitted for translation and will be reflected in the report submitted by the Secretary-General to the General Assembly on the subject.

8. On 7 July 2000 the Government of Croatia transmitted information in response to the note verbale. It stated that the Penal Code of Croatia provided long prison sentences for perpetrators of certain criminal acts of which foreign migrants were the victims. The Penal Code specifies it is a criminal act to transfer one or more persons over the State border for gainful purposes or to organize such transfer. Other criminal acts penalized are international prostitution, racial and other discrimination and the establishment of slavery and transfer of slaves. The Law on the Employment of Aliens provides a fine for the employer of an alien who has not been issued a work permit. This fine is imposed by a court in mandatory proceedings, and the employer may be temporarily forbidden from performing his business activities.

9. By letter dated 10 July 2000 the Government of Qatar stated that the competent authorities had no information on the protection of migrants.

10. Information provided on 21 July 2000 by the Government of Costa Rica included two volumes on, inter alia, statistics on the migrant population, legal protection instruments and access to health care. The Government stated that Article 19 of the Constitution prohibited any discrimination between national citizens and migrants. However, there were areas in which the Government was working to avoid certain irregularities, especially concerning Nicaraguan migrants.

11. The Secretary-General encourages Governments to continue providing information on any policy adopted on the implementation of General Assembly resolution 54/166, through the Office of the High Commissioner for Human Rights.

12. On 6 August 1999, pursuant to the decision of the Commission on Human Rights concerning the establishment of a special rapporteur on the human rights of migrants, the Chairperson of the Commission at its fifty-fifth session appointed Ms. Gabriela Rodriguez Pizarro (Costa Rica) as holder of that mandate. In order to carry out her tasks, the Special Rapporteur presented in her first report to the Commission a plan of action for the three-year period of her mandate. One of the tasks the Special Rapporteur included in her plan of action was a survey of regional initiatives, so that home countries and/or transit countries could enter into dialogue with countries that were traditionally seen as migrants' destinations. The Special Rapporteur referred to certain initiatives, carried out in that framework, which were at varying stages of development, such as the Puebla process, the Manila process, the Bangkok initiative (the Bangkok Declaration) and the Dakar, Mediterranean, Cairo, Lima and Commonwealth of Independent States (CIS) initiatives. In view of the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, due to be held in 2001, the Special Rapporteur

submitted in May 2000 to its Preparatory Committee a list of preliminary recommendations. They focused on the key themes of the Conference in relation to migrants and their families, particularly the double discrimination suffered by migrant women. The Special Rapporteur will submit final recommendations on that particular issue to the Commission on Human Rights at its fifty-seventh session. Concerning the regional expert seminars to be organized in connection with the World Conference, the Special Rapporteur expressed her intention to attend the seminars in Addis Ababa, Ethiopia, and Santiago, Chile, to be held 4-6 October and 25-27 October, respectively. On 25 April 2000 the Commission on Human Rights adopted resolution 2000/48 in which the Special Rapporteur was requested, inter alia, to include in her work schedule a programme of visits for the next two years, with a view to improving the protection afforded to the human rights of migrants, thus implementing as broadly and fully as possible all the aspects of her mandate. The Commission encouraged Governments to give serious consideration to inviting the Special Rapporteur to visit their countries so as to enable her to fulfil her mandate effectively and requested all Governments to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, to furnish all information requested and to respond promptly to her urgent appeals. The Special Rapporteur has received invitations from the Governments of Canada and Mexico to visit their countries. The Special Rapporteur will visit Canada in September 2000 and hopes to visit Mexico in early 2001.

13. Attention should be drawn to the status of ratifications of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by the General Assembly in resolution 45/158 of 18 December 1990. As of 15 May 2000 the following 12 countries had ratified the Convention: Azerbaijan, Bosnia and Herzegovina, Cape Verde, Colombia, Egypt, Mexico, Morocco, Philippines, Senegal, Seychelles, Sri Lanka and Uganda. The Secretary-General commends these ratifications and welcomes the recent news that one country is in the process of ratification and that seven more have given indications of intent or consideration to ratify. The Secretary-General urges all Member States to take all the necessary steps in order to ratify the Convention promptly and to bring it into force so as to ensure respect for the human rights of all migrant workers and their families.

14. The Office of the High Commissioner for Human Rights has organized in the context of the preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance an expert seminar which will take place in Bangkok, Thailand, from 5 to 7 September 2000 on the subject "Migrant workers and trafficking of persons, with particular reference to women and children". The report of the seminar will be submitted to the second session of the Preparatory Committee for the World Conference.

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Protection of migrants

Report of the Secretary-General

Addendum

1. Pursuant to General Assembly resolution 54/166, the Office of the High Commissioner for Human Rights transmitted, on 29 May 2000, a note verbale to Governments on behalf of the Secretary-General, drawing their attention, in particular, to paragraphs 1, 3, 4, 6 and 7 of the resolution. The Secretary-General requested Governments to provide him with any information they wished to submit pertaining to the implementation of the resolution.

2. On 21 July 2000, the Government of Mexico transmitted the following reply to the note verbale:

(a) The Government of Mexico has taken action in three main areas. The first relates to its activities to ensure the effective protection of the human rights of all migrants. In that context, the ratification in March 2000 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is of particular importance. In addition, since 1995 the National Institute of Migration has been implementing the National Migrant Protection Programme, with the participation of nine migrant protection groups, and respect for migrants' human rights is monitored. As for the protection of child migrants, we would emphasize the attention paid to repatriated children under the National Programme of Action for Children. In that context, the Governments of Mexico and the United States of America signed the Agreement on Procedures for the Safe and Orderly Repatriation of Mexican Nationals, which entered into force in 1998.

(b) With regard to cooperation by Governments with the Commission on Human Rights Special Rapporteur on the human rights of migrants, which the second part of our reply addresses, the Government of Mexico submitted a resolution, which was adopted without a vote at the latest session of the Commission, expressing the Commission's support for the work of the Special

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Rapporteur. In that context, the Government of Mexico has invited the Special Rapporteur to visit the country.

(c) The third area of activities relates to the review of immigration policies and the enactment of legislation to combat international trafficking of migrants, when their lives, especially those of women and children, are at risk. At the international level, the Government of Mexico would draw attention to its active participation, within the Ad Hoc Committee on the Elaboration of the Convention against Transnational Organized Crime, in the preparation of the draft protocol on the smuggling of migrants by land, air and sea. The Government has given its support to the preparation of an instrument to promote international cooperation to combat the trafficking and smuggling of immigrants. At the national level, the courts have acted to prosecute the perpetrators of such trafficking and action has been taken to protect the victims and strengthen the relevant domestic legislation.